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MAJLIS PERBANDARAN SUBANG JAYA
v. LEMBAGA RAYUAN NEGERI SELANGOR & ANOR

HIGH COURT MALAYA, SHAH ALAM
SHAHNAZ SULAIMAN J
[JUDICIAL REVIEW NO: BA-25-84-10-2020]
B 7 SEPTEMBER 2023

Abstract – *In order for any 'garis panduan' referred to by a local authority in considering approval for planning permission, to have a force of law, the court must look to the source of power for the said garis panduan. The garis panduan, in order to have a force of law, must be formulated pursuant to the provisions of the Town and Country Planning Act 1976 ('TCPA'); failure of which would render the garis panduan having no force of law.*

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ADMINISTRATIVE LAW: *Judicial review – Local authority – Rejection of planning permission by local authority – Decision reversed by State Appeal Board – Whether guidelines relied on by local authority has force of law – Whether guidelines formulated pursuant to provisions in Town and Country Planning Act 1976 – Whether force of law absent – Whether there was procedural impropriety or illegality in decision of State Appeal Board*

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LOCAL GOVERNMENT: *Local authority – Duties of local authority – Rejection of planning permission by local authority – Decision reversed by State Appeal Board – Whether guidelines relied on by local authority has force of law – Whether guidelines formulated pursuant to provisions in Town and Country Planning Act 1976 – Whether approval by Cabinet render guidelines having force of law*

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The second respondent made an application to the applicant, Majlis Perbandaran Subang Jaya ('MPSJ') for a planning permission to operate a kindergarten on a residential house. Pursuant to the Town and Country
G Planning Act 1976 ('TCPA'), the MPSJ rejected the second respondent's application, having taken into consideration the (i) Rancangan Tempatan Majlis Perbandaran Subang Jaya (Perubahan 2020); (ii) Garis Panduan Penubuhan Tadika dan Taska ('GP027') issued by the Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, Kementerian Perumahan dan
H Kerajaan Tempatan dated April 2012; and (iii) Garis Panduan Penubuhan Tadika dan Taska ('GP027') issued by the Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, Kementerian Perumahan dan Kerajaan Tempatan dated 10 July 2017. The second respondent appealed against the rejection to the first respondent and the appeal was allowed. Hence, the
I judicial review application by MPSJ to quash the decision of the first respondent. The issue for the court's consideration was whether the first respondent was bound and should apply the stipulations of Guidelines G027 dated April 2012 and GP027 dated 10 July 2017.

Held (dismissing application):

(1) In order for any guidelines to have the force of law, there must exist the 'punca kuasa'. A reading of the purpose and background of GP027 indicated that GP027 was published in 2012 following from Mesyuarat Jawatankuasa Tetap Pengaduan Awam Bil 2/2011. There was nothing in GP027 to suggest that it was formulated pursuant to a provision in the TCPA. Since GP027 was not drafted pursuant to any provision of the TCPA, it could not have the force of law. The fact that GP027 was approved in the Cabinet meeting and Mesyuarat Majlis Negara Bagi Kerajaan Tempatan did not equate to GP027 having the force of law. (paras 38 & 39)

(2) Section 23 of the TCPA allows the second respondent to appeal against the decision of MPSJ to the first respondent. Both MPSJ and the second respondent were given the opportunity by the first respondent to present their respective cases/appeals to the first respondent. The first respondent also had given MPSJ the jurisdiction to impose conditions on the second respondent. Hence, the first respondent had followed all the procedural requirements and hence, there was no procedural impropriety or illegality. (paras 40 & 41)

Case(s) referred to:

Akira Sales & Services (M) Sdn Bhd v. Nadiah Zee Abdullah & Another Appeal [2018] 2 CLJ 513 FC ***(refd)***

Beemer Sdn Bhd v. Majlis Bandaraya Petaling Jaya & Anor [2011] 1 LNS 857 HC ***(refd)***

Majlis Angkatan Tentera Malaysia v. Mohd Nurul Ami Mohd Basri [2019] 2 CLJ 772 CA ***(refd)***

Noor Shariful Rizal Noor Zawawi v. PP [2017] 4 CLJ 434 CA ***(refd)***

R Rama Chandran v. Industrial Court Of Malaysia & Anor [1997] 1 CLJ 147 FC ***(refd)***

Syarikat Kenderaan Melayu Kelantan Bhd v. Transport Workers Union [1995] 2 CLJ 748 CA ***(refd)***

Vinodh Mariappa v. Ketua Pengarah Eksekutif, Lembaga Pembangunan Pelaburan Malaysia, CEO MIDA & Ors [2021] 10 CLJ 135 HC ***(refd)***

Legislation referred to:

Rules of Court 2012, O. 53

Town and Country Planning Act 1976, s. 23

For the applicant - Manpal Singh Sachdev; M/s Manjit Singh Sachdev, Mohammad Radzi & Partners

For the 1st respondent - Siti Radziah Kamarudin; Legal Advisor, Selangor

For the 2nd respondent - Manoharan Malayalam & Anis Salihah Abdul Malek; M/s M Manoharan & Co

Reported by S Barathi

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JUDGMENT

Shahnaz Sulaiman J:

[1] This is an application for judicial review by the applicant, Majlis Bandaraya Subang Jaya against the decision of the Lembaga Rayuan Negeri
B Selangor.

Reliefs Sought

[2] The reliefs sought by the applicant, amongst others, are as reproduced below:

C (B) Peringkat Semakan Kehakiman (*Inter Partes*)

(2) Bahawa pemohon diberi suatu Perintah *Certiorari* untuk magakas dan/atau mengenepikan keseluruhan Keputusan/Perintah responden pertama bertarikh 02.07.2020 tersebut yang memutuskan bahawa:

D (a) Rayuan (oleh responden kedua) ini hendaklah dibenarkan oleh Penolakan Kebenaran Merancang seperti di Borang C (2) 19.12.2019 (oleh pemohon) hendaklah diakaskan dan diganti dengan Kebenaran Merancang dan sahlaku sehingga 31.12.2023;

E (b) Pihak perayu (iaitu responden kedua di sini) perlu boleh meletakkan syarat-syarat lazim digunapakai seperti syarat keselamatan, syarat-syarat pengangkutan murid-murid, syarat kebersihan dan syarat-syarat am yang dipersetujui di antara pihak perayu (iaitu responden kedua di sini) dan pihak responden untuk mengawal selia aktiviti Tadika Kreatif Inovasi
F (SA0379017-A) ini; seperti Lampiran A;

(c) Pihak perayu (iaitu responden kedua di sini) perlu mendapatkan lesen menjalankan aktiviti ini dan perlu diperbaharui pada Januari setiap tahun sehingga tahun 2023;

Factual Background

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[3] The second respondent made an application to the applicant for planning permission (Form C (1)) to operate a kindergarten on a residential house with an address at No. 23, Jalan SS 19/2, 47500 Subang Jaya, Mukim of Damansara, District of Petaling, Selangor Darul Ehsan.
H ("The kindergarten").

[4] Pursuant to the Town and Country Planning Act 1976, the applicant had considered the second respondent's application for planning permission to operate the kindergarten.

[5] The applicant had considered the "surat-surat sokongan jiran untuk
I membuat perubahan material kegunaan bangunan daripada kediaman kepada tadika/taska/pusat jagaan" from seven neighbours. These seven neighbours did not have any objections to the proposed kindergarten.

[6] There was an objection against the second respondent's application from Varatha Raju a/l Munusamy on behalf of Beaconhouse Malaysia Sdn Bhd dated 20 November 2019. There was another letter of objection against the second respondent's application from Ali Raza, the managing director of Beaconhouse Malaysia Sdn Bhd dated 3 December 2019.

[7] In coming to a decision, the applicant had also taken into consideration the following:

(a) "Rancangan Tempatan Majlis Perbandaran Subang Jaya (Perubahan 2020)";

(b) "Garis Panduan Penubuhan Tadika dan Taska (GP027)" issued by the "Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, Kementerian Perumahan dan Kerajaan Tempatan" dated April 2012; dan

(c) "Garis Panduan Penubuhan Tadika dan Taska (GP027)" issued by the "Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, Kementerian Perumahan dan Kerajaan Tempatan" dated 10.07.2017.

[8] After a consideration of the matter, the applicant rejected the second respondent's application for a planning permission (Form C (1)) to operate a kindergarten on the said property. As such, a rejection of planning permission (Form C (2)) for the said property dated 19 December 2019 was issued by the applicant to the second respondent.

[9] The second respondent was dissatisfied with the applicant's aforesaid decision and proceeded to file an appeal with the first respondent. The second respondent had filed a Form A, which was the "notis rayuan terhadap keputusan pihak berkuasa perancangan tempatan" dated 6 February 2020 with the first respondent.

[10] The first respondent had accepted the said notice of appeal in Form A and had informed the same to the applicant by way of a letter dated 7 February 2020.

[11] Thereafter, on or about 2 July 2020, the first respondent had heard the second respondent's appeal and, *inter alia*, had made the decisions as follows:

(a) Rayuan (second respondent) ini hendaklah dibenarkan dan Penolakan Kebenaran Merancang seperti di Borang C (2) 19.12.2019 (by the applicant) hendaklah diakaskan dan digantikan dengan Kebenaran Merancang dan sahlaku sehingga 31.12.2023;

(b) Pihak responden (the applicant) bolehlah meletakkan syarat-syarat lazim digunapakai seperti syarat keselamatan, syarat-syarat pengangkutan murid-murid, syarat kebersihan dan syarat-syarat am yang dipersetujui di antara pihak perayu (second respondent) dan pihak responden untuk mengawal selia aktiviti Tadika Kreatif Inovasi ini; seperti Lampiran A;

(c) Pihak perayu (second respondent) perlu mendapatkan lesen menjalankan aktiviti ini dan perlu diperbaharui pada Januari setiap tahun sehingga tahun 2023.

[12] Dissatisfied with the decision of the first respondent, the applicant filed this application for judicial review to quash the decision of the first respondent.

Principles Relating To Judicial Review

[13] Prior to considering and analysing this application, it would be prudent for this court to reflect on the legal principles relating to judicial review. Order 53 of the Rules of Court 2012 provides for the procedures for an application for judicial review.

[14] It is trite that the decision of a public authority may be reviewed by this court on the grounds of illegality, irrationality, procedural impropriety or disproportionality. This review is not confined to the decision-making process but also to the merits of the decision.

[15] In the Federal Court case, *Akira Sales & Services (M) Sdn Bhd v. Nadiah Zee Abdullah & Another Appeal* [2018] 2 CLJ 513; [2018] 2 MLJ 537, the liberal approach on judicial review in *R Rama Chandran v. Industrial Court Of Malaysia & Anor* [1997] 1 CLJ 147; [1997] 1 MLJ 145 has been re-emphasised at pp. 547 to 548 (CLJ); pp. 571 to 572 (MLJ) as follows:

> [45] In the same appeal, Edgar Joseph Jr FCJ (Eusoff Chin in agreement) said that an award could be reviewed for substance as well as for process:
>
> > It is often said that judicial review is concerned not with the decision but the decision making process. (See *eg*, *Chief Constable of North Wales Police v. Evans* [1982] 1 WLR 1155). This proposition, at full face value, may well convey the impression that the jurisdiction of the courts in Judicial Review proceedings is confined to cases where the aggrieved party has not received fair treatment by the authority to which he has been subjected. Put differently, in the words of Lord Diplock in *Council of Civil Service Unions & Ors v. Minister for the Civil Service* [1985] AC 374, where the impugned decision is flawed on the ground of procedural impropriety.
> >
> > But Lord Diplock's other grounds for impugning a decision susceptible to Judicial Review make it abundantly clear that such a decision is also open a challenge on grounds of 'illegality' and 'irrationality' and, in practice, this permits the courts to scrutinise such decisions not only for process, but also for substance.
> >
> > In this context, it is useful to note how Lord Diplock (at pp. 410-411) defined the three grounds of review, to wit, (i) illegality, (ii) irrationality, and (iii) procedural impropriety. This is how he put it:

> By 'illegality' as a ground for Judicial Review, I mean that the decision maker must understand correctly the law that regulates his decision making power and must give effect to it. Whether he has or not is par excellence a justiciable question to be decided, in the event of dispute, by those persons, the judges, by whom the judicial power of the state is exercisable.
>
> By 'irrationality', I mean what can by now be succinctly referred to as '*Wednesbury* unreasonableness' (see *Associated Provincial Picture Houses Ltd v. Wednesbury Corp.* [1948] 1 KB 223). It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it. Whether a decision falls within this category is a question that judges by their training and experience should be well equipped to answer, or else there would be something badly wrong with our judicial system. To justify the courts' exercise of this role, resort I think is today no longer needed to Viscount Radcliffe's ingenious explanation in *Edwards v. Bairstow* [1956] AC 14, or irrationality as a ground for a court's reversal of a decision by ascribing it to an inferred though undefinable mistake of law by the decision maker. 'Irrationality' by now can stand on its own feet as an accepted ground on which a decision may be attacked by Judicial Review.
>
> I have described the third head as 'procedural impropriety' rather than failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who will be affected by the decision. This is because susceptibility to judicial review under this head covers also failure by an administrative tribunal to observe procedural rules that are expressly laid down in the legislative instrument by which its jurisdiction is conferred, even where such failure does not involve any denial of natural justice.
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> Lord Diplock also mentioned 'proportionality' as a possible fourth ground of review which called for development.

[16] Further, the meaning of error of law has also been explained in the case of *Syarikat Kenderaan Melayu Kelantan Bhd v. Transport Workers Union* [1995] 2 CLJ 748; [1995] 2 MLJ 317 in the following words:

> Is neither feasible nor desirable to attempt an exhaustive definition of what amounts to an error of law, for the categories of such an error are not closed. But it may be said that an error of law would be disclosed if the decision-maker asks himself the wrong question or takes into account irrelevant considerations or omits to take into account relevant considerations (what may be conveniently termed Anisminic error) or if he misconstrues the terms of any relevant statute, or misapplies or misstates a principle of the general law.

A **Analysis And Findings**

[17] There is only one issue before this court. The issue before this court is whether the first respondent is bound and should apply the stipulations of Guidelines GP027 dated April 2012 and GP027 dated 10 July 2017.

B **[18]** The applicant argued that the first respondent ought to be bound and should apply the Rancangan Tempatan Majlis Perbandaran Subang Jaya (Penggubalan 2020) which was gazetted on 23 June 2016.

[19] In accordance with the said "Rancangan Tempatan Majlis Perbandaran Subang Jaya (Pengubahan 2020)", *inter alia*, it was provided C that:

> 1. Setiap kelas guna tanah yang dibenarkan perlu mematuhi Manual Garis Panduan & Piawaian Perancangan Negeri Selangor, Dasar Kerajaan Negeri & Persekutuan, garis panduan khusus dan keperluan daripada jabatan teknikal. (see exhibit "RR-22", page 46, D bottom, Nota 1).

[20] It was submitted by the applicant that the Guidelines GP027 dated April 2012 and GP027 dated 10 July 2017 are applicable and ought to be applied by both the applicant and the first respondent.

E **[21]** To support this contention, the applicant argued that the Guidelines have a force of law.

[22] In *Majlis Angkatan Tentera Malaysia v. Mohd Nurul Ami Mohd Basri* [2019] 2 CLJ 772 (Court of Appeal) (Tab A), His Lordship Abdul Rahman Sebli JCA (now FCJ), at p. 785, decided that:

F > [33] **... for any guideline to have any force of law, it must be made pursuant to a power given by law. ...** (emphasis added)

[23] In *Noor Shariful Rizal Noor Zawawi v. PP* [2017] 4 CLJ 434 (Court of Appeal) (Tab B), His Lordship Zamani A Rahim JCA, at p. 447, decided that:

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> [42] Thus, s. 31 of the Drug Dependents (Treatment and Rehabilitation) Act 1983 must be read conjointly with ss. 38A and 38B of the Dangerous Drugs Act 1952. **Therefore, the KKM Guidelines Bilangan 6/2002 which is formulated in line with both of the aforesaid Acts and therefore it has the force of law.**
>
> H (emphasis added)

[24] The applicant submitted that the Guidelines GP027 were enacted and published by Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia (PLAN Malaysia) under the Kementerian Perumahan dan Kerajaan Tempatan. The governing statutory Acts, include the Town and Country I Planning Act 1976 and the Local Government Act 1976. Paragraph 4 of GP027 states as follows:

4.0 Peruntukan Perundangan dan Peraturan

Perancangan dan penubuhan TADIKA dan TASKA adalah tertakluk kepada peruntukan perundangan dan peraturan utama seperti berikut:

i. Kanun Tanah Negara 1965 [Akta 56];

ii. Akta Perancang Bandar dan Desa 1976 [Akta 172];

iii. Akta Kerajaan Tempatan 1976 [Akta 171];

iv. Akta Pelajaran 1961 [Akta 43];

v. Akta Pendidikan 1996 [Akta 550];

vi. Akta Taman Asuhan Kanak-Kanak 1984 [Akta 308];

vii. Undang-undang Kecil Bangunan Seragam 1984 [UKBS, 1984];

viii. Peraturan-Peraturan Pendidikan 1997 & 1998;

ix. Peraturan-peraturan Taman Asuhan Kanak-Kanak (Di Institusi) 1985;

x. Arahan Ketua Pengarah (KP) Jabatan Bomba dan Penyelamat Malaysia;

xi. Rujukan Jabatan Bomba dan Penyelamat Malaysia;

xii. Kurikulum Asuhan dan Didikan Awal Kanak-Kanak Kebangsaan yang dilaksanakan oleh Kementerian Pendidikan Malaysia (KPM); dan

xiii. Peraturan-Peraturan yang dikeluarkan dari semasa ke semasa.

[25] It was further submitted that the GP027 dated 10 July 2017 was approved at the Cabinet meeting on 21 June 2017 and the Mesyuarat Majlis Negara Bagi Kerajaan Tempatan ke-71 on 10 July 2017. Learned counsel for the applicant argued that GP027, which was approved in the Cabinet meeting, has the force of law and hence ought to be complied with by both respondents.

[26] Further to this, the applicant submitted that the decision of the first respondent would cause non-conformity which, in turn, would result in chaos in the administration.

[27] On behalf of the first respondent, the Senior Federal Counsel argued that the first respondent was well within its jurisdiction when it heard the appeal against the decision of the local authority. Reference was made to s. 23 of the Town and Country Planning Act 1976 which provides:

(1) An appeal against the decision of the local planning authority made under subsection 22(3) may be made to the Appeal Board within one month from the date of the communication of such decision to him, by:

A (a) an applicant for planning permission aggrieved by the decision of the local planning authority to refuse planning permission or by any condition imposed by the local planning authority in granting planning permission; and

(b) a person who has lodged an objection pursuant to subsection B 21(6) and is aggrieved by the decision of the local planning authority in relation to his objection.

(2) In considering an appeal, the Appeal Board shall hear the appellant and the local planning authority.

(3) After hearing the appeal, the Appeal Board may make an order:

C (a) confirming the decision of the local planning authority and dismissing the appeal;

(b) allowing the appeal by directing the local planning authority to grant planning permission absolutely or subject to such conditions as the Appeal Board thinks fit;

D (c) allowing the appeal by setting aside any planning permission granted; or

(d) allowing the appeal by directing the local planning authority to remove or modify any condition subject to which planning permission has been granted or to replace the condition with E such other condition as the Appeal Board thinks fit.

[28] Founded on the provision of s. 23 above, it was submitted that the first respondent had jurisdiction to hear the appeal from the second respondent against the decision of the applicant. This was a statutory power given to the F first respondent. (See: *Beemer Sdn Bhd v. Majlis Bandaraya Petaling Jaya & Anor* [2011] 1 LNS 857).

[29] The first respondent submitted that when the appeal by the second respondent was considered by the first respondent, the first respondent had considered the second respondent's letter dated 6 May 2020 stating that the G second respondent's kindergarten accepted special needs children and that there were solutions to the traffic issues when the parents pick up their children at the kindergarten.

[30] Both the applicant and the second respondent were given the opportunity by the first respondent to present their respective cases on the H appeal.

[31] The first respondent, therefore, argued that all matters and procedures had been complied with by the first respondent.

[32] Learned counsel for the second respondent argued that the second I respondent, who was aggrieved by the decision of the applicant dated 19 December 2019, had exercised his right to appeal to the first respondent as provided by s. 23 of the Town and Country Planning Act 1976.

[33] The second respondent further submitted that there was no procedural irregularity in the decision-making of the first respondent to hear the appeal, consider its merits and to allow or dismiss the appeal.

Whether GP 027 Has The Force Of Law

[34] The applicant contended that the GP027 has a force of law and ought to be complied with by the applicant and the first respondent. The issue therefore is whether a garis panduan has a force of law. It was argued by the applicant that the GP027 has the force. The applicant argued that the GP027 was approved at the Cabinet meeting on 21 June 2017 and the Mesyuarat Majlis Negara Bagi Kerajaan Tempatan ke-71 on 10 July 2017 and hence, by virtue of this, has the force of law.

[35] In order for a garis panduan to have the force of law, the court must look to the punca kuasa of the garis panduan. What this entails is the power from which the garis panduan was made. (See: *Vinodh Mariappa v. Ketua Pengarah Eksekutif, Lembaga Pembangunan Pelaburan Malaysia, CEO MIDA & Ors* [2021] 10 CLJ 135; [2022] 7 MLJ 456).

[36] To consider whether the GP027 was legislated pursuant to a punca kuasa, this court perused the Garis Panduan Perancangan Dan Penubuhan Tadika Dan Taska 2017. The purpose of GP027 is reproduced below:

> Garis Panduan Perancangan dan Penubuhan Taman Didikan Kanak-kanak (TADIKA) dan Taman Asuhan Kanak-Kanak (TASKA) 2017 (GPPP TADIKA dan TASKA 2017) ini disediakan bertujuan untuk memudah cara serta memberi panduan kepada Pihak Berkuasa Negeri (PBN), pihak berkuasa tempatan (PBT), agensi pelaksana dan pemaju dalam merancang, menubuh dan mengawal pembangunan TADIKA dan TASKA. GPPP TADIKA dan TASKA 2017 ini menggantikan Garis Panduan Penubuhan TADIKA dan TASKA 2012 (GPP TADIKA dan TASKA 2012).

[37] The background to GP027 reads as follows:

> GPP TADIKA dan TASKA telah diterbitkan pada tahun 2012 susulan daripada Mesyuarat Jawatankuasa Tetap Pengaduan Awam Bil. 2/2011 pada 6 April 2011 yang dipengerusikan oleh Ketua Setiausaha Negara (KSN) yang mana telah membincangkan isu-isu berkaitan operasi dan penubuhan TADIKA dan TASKA ...

[38] A reading of the purpose and background of GP027 indicates to this court that GP027 was published in 2012 following Mesyuarat Jawatankuasa Tetap Pengaduan Awam Bil. 2/2011 pada 6 April 2011. This would appear to be the inception of GP027. There is nothing in GP027 to suggest that it was formulated pursuant to a provision in the Town and Country Planning Act 1976. In the considered view of this court, if GP027 was not drafted in pursuant to any provision of the Town and Country Planning Act 1976, it

cannot be said that GP027 has the force of law. In this regard, this court respectfully does not agree with the argument by learned counsel for the applicant.

[39] The applicant argued that the fact that GP027 was approved at the Cabinet meeting on 21 June 2017 and the Mesyuarat Majlis Negara Bagi Kerajaan Tempatan ke-71 on 10 July 2017 and hence by virtue of this, has the force of law. In order for any garis panduan to have the force of law, there must exist the punca kuasa. In this case, GP027 was approved by the Cabinet. The fact that GP027 has been approved by the Cabinet in the Cabinet Meeting on 21 June 2017 and the Mesyuarat Majlis Negara Bagi Kerajaan Tempatan ke-71 on 10 July 2017, does not, in the considered view of this court, equate to GP027 having the force of law. If this were the case, there would be made decisions of the Cabinet which would have the force of law. This court is of the view that the applicant is stretching the meaning of force of law to include any decisions of the Cabinet. This contention, therefore, cannot stand.

Procedural Impropriety

[40] Section 23 of the Town and Country Planning Act 1976 allows the second respondent to appeal against the decision of the applicant to the first respondent. Both the applicant and the second respondent were given the opportunity by the first respondent to present their respective cases/appeals to the first respondent. The first respondent, in allowing the second respondent's appeal, had given the applicant the jurisdiction to impose conditions on the second respondent. This was to ensure any traffic issues or problems when the parents pick up their children from the kindergarten would be mitigated and reduced.

[41] Having perused the affidavits filed, this court is satisfied that the first respondent had followed all procedural requirements. This court therefore finds no procedural impropriety or illegality.

Conclusion

[42] In the upshot, for the above stated reasons, this court dismisses this application for judicial review. There is no order as to costs.